

REMARKS

Claims 1, 2 and 12-15 are pending in the present application. Claims 1 and 2 are independent claims. By this Amendment, claims 3 and 4 are cancelled without prejudice or disclaimer. Claims 1 and 2 are amended and new claims 14 and 15 are added. No new matter is added.

Rejection Under 35 U.S.C. 102

Claims 1-4 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,029,563 to Nakagawa et al. ("Nakagawa"). As claims 3 and 4 are cancelled, the rejection of these claims is moot. The rejection of the remaining pending claims is respectfully traversed.

Independent claim 1 is amended to recite a central control section configured to control the stirring control section and the temperature control section so that a breadmaking sequence using rice flour and including mixing breadmaking ingredients containing the rice flour, primarily rising the mixed breadmaking ingredients, kneading the breadmaking ingredients to form a dough, secondarily rising the dough, and baking the dough is performed in this order.

In rejecting the pending claims it is alleged that Nakagawa discloses a "central control section" (alleged to be the control unit 11) for controlling the stirring control section (alleged to be the motor driving circuit 113) and the temperature control section (alleged to be the heating driving circuit 114).

However, the control unit 11 of Nakagawa is configured to control sequential performance of a kneading process, a primary fermenting process, a degassing process, a dough resting process, a dough rounding process and a

shaping/fermenting process in this order (col. 8, lines 13-18 of Nakagawa). Thus, Nakagawa fails to disclose or suggest the features recited in independent claim 1 as amended. As such, the rejection should be withdrawn.

Independent claim 2 is amended to recite a central control section configured to control the stirring control section and the temperature control section, thereby making bread with use of rice flour by mixing breadmaking ingredients containing rice flour, primarily rising the mixed breadmaking ingredients, kneading the breadmaking ingredients to form a dough, secondarily rising the dough and baking the dough, sequentially in the container.

As discussed above, it is alleged in the Office Action that Nakagawa discloses a “central control section” (alleged to be the control unit 11) for controlling the stirring control section (alleged to be the motor driving circuit 113) and the temperature control section (alleged to be the heating driving circuit 114).

In contrast to the sequence controlled by the claimed central control section, the control unit 11 of Nakagawa is configured to control the sequential performance of a kneading process, a primary fermenting process, a degassing process, a dough resting process, a dough rounding process and a shaping/fermenting process in this order. Thus, Nakagawa fails to disclose or suggest the features recited in independent claim 1 as amended. As such, the rejection should be withdrawn.

Moreover, Nakagawa specifically describes a degassing process that is controlled by the control unit. 11 (see col. 8, lines 8-33). In contrast, claims 12 and 13 recite that that the mixed breadmaking ingredients are baked after kneading without being subjected to a degassing process. As such, Nakagawa cannot render the claims unpatentable. Therefore, the rejection should be withdrawn.

Applicants note the statements in the Remarks section of the present Office Action that "the crux of applicant's arguments as well as newly added claims 12 and 13 also pertain to the specific process which the claimed invention is said to control; however, the issue remains that the structural differences have not been delineated from the prior art. All of the claimed structural limitations have been addressed in the instant office action" (emphasis in the original). Applicants disagree.

Applicants first respectfully remind the Examiner that it is improper to distill an invention down to the "crux" as has happened in the present examination. According to MPEP §2142.02, "distilling an invention down to the "gist" or "thrust" of an invention disregards the requirement of analyzing the subject matter "as a whole."¹

Further, not all of the claimed structural limitations have been addressed. For example, as discussed above, Nakagawa does not disclose or suggest a central control section as claimed. According to an example embodiment of the central control section described in the specification of the present application, the control unit 11 includes a microcomputer 111 composed of a central processing unit, a Rom, a RAM, an I/O circuit 112, a motor drive circuit 113, a heater drive circuit 114 and a boiler drive circuit 115. "The microcomputer corresponds to the central control section" (see page 11, lines 4-11; Fig. 4). Moreover, "Fig. 10 illustrates the contents of the control of the microcomputer 11." Thus, it is clear from the specification that the claimed central control section is structure.

The control unit of Nakagawa is not corresponding structure at least because the control unit 11 of Nakagawa does not and cannot perform the same function as

¹ *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) *Bausch & Lomb v. Barnes-Hind/Hydrocurve, Inc.*, 796 F.2d 443, 447-49, 230 USPQ 416, 419-20 (Fed. Cir. 1986), cert. denied, 484 U.S. 823 (1987)

the claimed central control section (i.e., the performance of control of the claimed sequential steps). Rather, the control unit 11 of Nakagawa has clearly been programmed with instructions different from those of the claimed central control section in that it does not perform the same steps described in the pending claims.

Further, it is well settled that describing a controller by its function is acceptable and patentable subject matter in apparatus claims (see *In re Bradley*, 600 F.2d 1807, 202 USPQ 480 (CCPA 1979)). Moreover, "if a machine is programmed in a certain new and unobvious way, it is physically different from the machine without that program; its memory elements are differently arranged. The fact that these physical changes are invisible to the eye should not tempt us to conclude that the machine has not been changed." (*Application of Bernhardt*, 417 F.2d 1395, 1400 (1969)). Thus, the claimed central control section is not disclosed or suggested by the control unit 11 of Nakagawa.

Because Nakagawa fails to disclose or suggest each of the elements recited in the rejected claims, withdrawal of the rejection is requested.

New Claims

Nakagawa fails to disclose or suggest that the control unit 11 is configured to control the stirring control section and the temperature control section so that the blade is intermittently rotated for a first predetermined time when mixing breadmaking ingredients containing rice flour, then the temperature in the container is maintained at a predetermined temperature for a second predetermined time, and thereafter the blade is continuously rotated for a third predetermined time when kneading the breadmaking ingredients, as in new claims 14 and 15.

CONCLUSION

In view of the above remarks and amendments, the Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Should there be any outstanding matters that need to be resolved in the present application; the Examiner is respectfully requested to contact the undersigned at the telephone number below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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